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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,969

09/26/2003

Keith Homer Baker

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27752 7590 11/28/2008  
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EXAMINER

LIGHTFOOT, ELENA TSOY

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

11/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Advisory Action***

The Request for Reconsideration filed on September 30, 2008 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance for the reasons of record set forth in the Final Office Action mailed on July 30, 2008.

***Response to Arguments***

Applicant's arguments filed September 30, 2008 have been fully considered but they are not persuasive.

**35 U.S.C. §103**

**Claims 76, 83-93, and 119** are finally rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. in view of Ishikawa et al. and Wu et al.

(A) Applicants submit that the Examiner has taken improper "Official Notice" of facts neither disclosed, suggested or inherent in the asserted references nor common knowledge to those of ordinary skill in the relevant art. Without resort to these illicit stipulations the references do not support the Examiner's case. Applicants argue that Watanabe never discusses impact of detergent on the leather portion of a shoe and never discloses detergent formulation as a means to control or prevent damage to shoes during washing. Watanabe is concerned with avoiding mechanical damage or "bruising" to surface leather of a shoe that typically occurs during a dry cleaning processes, and with avoiding exposing the shoe to long periods of moisture/conditions for mold growth. Watanabe is also concerned with providing cleaning methods that remove human organic matter which results in odors and bacterial growth on the inside of a shoe, without resort to immersion or harsh cleaning conditions typically relied on to control this problem. Watanabe mentions "leather" in several places and Applicants agree that the leather is necessarily tanned and that the term "leather" in this context includes Cr-tanned leather within its scope.

The Examiner respectfully disagrees with this argument. First of all, in contrast to Applicants argument, Watanabe discloses *expressly* removing **dirt** from *leather* shoes without harming the shoes since Watanabe discloses that *leather* shoes (See P1) are treated to remove not only *dirt* on a shoe **without harming the shoes** but also an *odor* and *fungi* (See Abstract; P5-6).

Second, it is held that it is proper to rely on ***implicit disclosure***. In considering the disclosure of a reference, it is proper to take into account not only specific teachings of the

Art Unit: 1792

reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.” See MPEP 2144.01. Therefore, it was proper for the Examiner to rely on ***implicit teaching*** of Watanabe, namely, one of ordinary skill in the art would reasonably be expected to draw the inference from the above teaching of Watanabe that a detergent of Watanabe should have dirt removing ingredients that should not remove significant levels of chromium implicitly because it removes the dirt from the leather shoes **without harming the shoes.**

(B) Applicants submit that in the instant specification, dirt which is particulate and includes, e.g. clay and soil, includes Ca and Mg ions which may be removed with agents which bind transition metal ions. This is problematic in the cleaning of leather shoes since while it is desirable to remove Ca and Mg ions, tanned leather contains chromium which is necessary for the suppleness and integrity of the leather so that removal of Cr ions is undesirable. The instant specification notes that conventional formulations do not recognize this issue and include non-selective transition metal ion removing agents which may damage any leather present in a shoe that is washed with conventional detergents. **The instant specification, as noted previously, provides ample guidance for how to formulate a treatment composition to be selective for the removal of Ca and Mg ions and avoid undesirable removal of Cr ions** (emphasis is added by the Examiner). As noted by the Examiner, Watanabe and Wu disclose very general detergents that include components that remove Ca and Mg, generally recognized as desirable in the art of shoe treatment compositions. However, the Examiner errs in his deductive reasoning in concluding that since Watanabe discloses that his methods do not damage shoes, including leather shoes, his detergents therefore do not remove Cr ions in accordance with the present methods. Neither Ishikawa nor Wu are relevant to this error. In order to effectively communicate this flaw, Applicants note the Examiner's reasoning below. Given the following four premises supported by the specification and the art: (a). Conventional shoe treatment methods include application of treatment compositions that typically remove transition metal ions. (b). Removal of Ca/Mg ions is desirable, but Applicants recognize that in leather shoes removal of Cr ions damages the leather. (c) Therefore, selective removal of Ca/Mg ions without removing Cr ions will reduce treatment-related damage to the leather portion of shoes. (d) Watanabe discloses reducing wash-related damage to shoes by avoiding dry cleaning, mechanical agitation, high pressures and by minimizing exposure to moisture. Based on these premises, the Examiner deductively concludes the following: (e) Watanabe discloses treatment compositions that selectively remove Ca/Mg ions without removing Cr ions. Applicants respectfully submit that the conclusion drawn as (e) requires a leap of logic beyond what is provided by premises (a)-(d). It is logically impossible to deductively arrive at the Examiner's conclusion. In fact, Watanabe discloses treatment formulations that are instantly discloses as resulting in the unselective removal of transition metal ions.

The Examiner respectfully disagrees with this argument. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that

Art Unit: 1792

the features upon which applicant relies (i.e., a guidance for how to formulate a treatment composition to be selective for the removal of Ca and Mg ions and avoid undesirable removal of Cr ions or claimed formulation not being general detergents containing Ca and Mg ions removing components that are different from those of Watanabe or general detergents) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to d), Note that claims do not recite particular treating steps and treating time. Therefore, claimed method reads on treatment method of Watanabe including avoiding dry cleaning, mechanical agitation, high pressures and by minimizing exposure to moisture. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

As to e), Therefore, the conclusion drawn as (e) requires no leap of logic beyond what is provided by premises (a)-(d) since Watanabe discloses treatment compositions that remove the dirt and does not damage the leather shoes, i.e. deliver effective level of Ca and Mg removing components without removing significant levels of chromium.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy Lightfoot whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Friday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Art Unit: 1792

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Elena Tsoy Lightfoot, Ph.D.  
Primary Examiner  
Art Unit 1792

November 29, 2008

/Elena Tsoy Lightfoot/